

IN THE
SUPREME COURT OF FLORIDA

PALM BEACH COUNTY
CANVASSING BOARD,

Petitioner,

v.

CASE NO. 00-2346

KATHERINE HARRIS, as Secretary of
State of the State of Florida, and
ROBERT A. BUTTERWORTH, as Attorney
General of the State of Florida,

Respondent.

RESPONSE OF THE ATTORNEY GENERAL

ROBERT A. BUTTERWORTH, Attorney General, State of Florida, hereby submits this response addressing the Palm Beach County Canvassing Board's decision to manually recount all ballots cast for the office of President of the United States.

Attorney General Opinion 00-65, issued November 14, 2000, recognizes the authority of a county canvassing board to conduct a manual recount of all ballots, if it determines from its sample recount that a discrepancy exists between the machine vote tabulation and the hand recount that could affect the result of the election. The Attorney General stands by the analysis and conclusions contained in this opinion. (Op. Att'y Gen. Fla. 00-65 [2000] is attached as Exhibit A). The reasons for disagreeing with

the conclusions of the Division of Elections are fully set out in Attorney General Opinion 00-65.

The issue before the Court requires merely a straight forward reading of the statutes. Such a reading compels the conclusion that the Palm Beach County Canvassing Board has the discretionary authority to conduct a manual recount of all ballots, if it determines from its sample recount that a discrepancy exists between the machine vote tabulation and the hand recount that could affect the result of the election. See, *Broward County Canvassing Board v. Hogan*, 607 So. 2d 508 (Fla. 4th DCA 1992) (statutes clearly leave the decision to conduct a manual recount within the discretion of the board).

As the Court recognized in *Beckstrom v. Volusia County Canvassing Board*, 707 So. 2d 720 (Fla. 1988), the overriding purpose of an election is to ascertain the will of the people. It is "the sanctity of the ballot and the integrity of the election process," *Bolden v. Potter*, 452 So. 2d 564, 567 (Fla. 1984), that is of paramount importance in addressing the issues now before this Court.

Therefore, the Attorney General respectfully requests this Court to recognize the discretionary authority of the Palm Beach County Canvassing Board to manually count all ballots if it determines from its sample recount that a discrepancy exists

between the machine vote tabulation and the hand recount that could affect the result of the election.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by facsimile to:

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this _____ day of November, 2000.

George Waas